IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 29721 of 2004(L)

PETITIONER:

TAHSILDAR, PATHANAPURAM TALUK OFFICE,
PUNALUR.

BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKEL

RESPONDENTS:
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1. **THE INDUSTRIAL CREDIT AND INVESTMENT CORPORATION OF INIDA LTD., A PUBLIC LTD. COMPANY INCORPORATED UNDER THE INDIAN COMPANIES ACT VII OF 1913 AND HAVING ITS REGISTERED OFFICE AT 163, BACKBAY RECLAMATION, BOMBAY-400 020.**

2. **PUNALUR PAPER MILLS LTD., A LTD CO. INCORPORATED UNDER THE TRAVANCORE CO.ACT 1902 AND NOW GOVERNED BY THE CO.ACT 1956 AND HAVING ITS REG.OFFICE AT PUNALUR, PATHANAPURAM TALUK, KOLLAM REP.BY ITS MG.DIRECTOR, KUNAL DALMIA, NELLIE SEN GUPTA SARANI, CULCUTTA-700 087.**

3. **THE DEBT RECOVERY TRIBUNAL, BOMBAY.**

4. **THE RECOVERY OFFICER, DEBT RECOVERY TRIBUNAL, BOMBAY.**

BY ADV. SRI.E.S.MUHAMMED KABIR, ADD.CGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 29721/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE DETAILS OF ARREARS IN PUNALUR PAPER MILLS LTD., FROM THE YEAR 1985 UPTO THE YEAR 1988.

EXT.P2. COPY OF THE JUDGMENT IN OP NO. 2004/85 DT. 9/2/89.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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KURIAN JOSEPH, J.

W.P. (C). NO. 29721 OF 2004

Dated this the 8th day of August, 2007.

J U D G M E N T

This writ petition is filed with the following prayer:

> a) Issue a declaration that the power under Section 26B of the Kerala General Sales Tax Act giving first charge to Sales tax dues will prevail over the power of the 3rd and 4th respondent to recover dues of the first respondent.

2. The position is well settled in favour of the Revenue by several decisions, the latest of which is reported in ***State of Kerala vs. Rajmohan Cashew (P) Ltd.*** **(2005(2) KLT 131)**. Therefore, this writ petition is allowed and there will be a declaration as prayed for.

KURIAN JOSEPH, JUDGE.

smp